

EXHIBIT C

Declaration of Kimberly Sullivan, Medicaid Executive Director
for the Louisiana Medicaid Program

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THE STATE OF TENNESSEE, et al.,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity
as Secretary of the United States Department
of Health and Human Services, et al.,

Defendants.

Case No. 1:24-cv-161-LG-BWR

DECLARATION OF KIMBERLY SULLIVAN

Pursuant to 28 U.S.C. § 1746, I, Kimberly Sullivan, duly affirm under penalty of perjury as follows:

1. I am over 18 years of age, have personal knowledge of the matters set forth herein, and am competent to make this Declaration.

2. I serve as the Medicaid Executive Director for the Louisiana Medicaid Program, which includes Louisiana's medical assistance program, the Louisiana Children's Health Insurance Program ("LaCHIP") and Program of All-Inclusive Care for the Elderly ("PACE"). The Louisiana Medicaid Program operates within the Louisiana Department of Health ("LDH").

3. As Medicaid Executive Director, I am responsible for the management of the Louisiana Medicaid Program and its programs. These responsibilities include ensuring compliance with state and federal anti-discrimination laws. That comprises overseeing the teams that review and evaluate rules and regulations promulgated by federal agencies, including the U.S. Department

of Health and Human Services (“HHS”), to determine whether they necessitate policy changes. And where such changes are necessary—either because the Louisiana Medicaid Program does not have a policy required by the regulation or has a conflicting policy—I am ultimately responsible for executing a plan for bringing the Louisiana Medicaid Program into compliance.

4. The Louisiana Medicaid Program’s mission is to improve lives through high-quality, cost-effective care. Accomplishing this mission requires partnership between the provider community, stakeholders, advocates, families, and Louisiana Medicaid Program employees. As of May 2024, the Louisiana Medicaid Program currently serves 1,712,169 Louisianans, including low-income individuals, pregnant women, children, parents and caretaker relatives of children, older adults, and adults with disabilities.

5. As of May 2024, approximately 707,833 minors were enrolled in the Louisiana Medicaid Program.

6. As of May 2024, approximately 1,004,336 adults were enrolled in the Louisiana Medicaid Program.

7. The Louisiana Medicaid Program received approximately \$13,376,842,689 in total federal funding in State Fiscal Year 2022-2023. That includes \$547,772,410 in federal funding for LaCHIP and \$10,520,811 in federal funding for the State’s PACE program. LDH estimates that the federal share expended for each program will be even greater in State Fiscal Year 2023-2024, with a projection of \$13,805,754,054 in total federal funding.

8. Federal funding is used to pay a portion of the Louisiana Medicaid Program’s administrative costs, including many Louisiana Medicaid Program employees’ salaries and benefits. Most Louisiana Medicaid Program employees’ salaries and benefits are partially funded by the Medicaid Administration Grant, and certain employees’ salaries and benefits are

specifically approved under distinct grant programs, such as Medicaid's Money Follows the Person.

9. In State Fiscal Year 2022-2023, LDH contributed \$6,740,336 to Louisiana's state employee health insurance plan, Office of Group Benefits, on behalf of Louisiana Medicaid Program employees, including \$3,370,168 in federal funds. LDH estimates its contribution to be \$7,497,445 in State Fiscal Year 2023-2024, including \$3,748,723 in federal funding.

10. The Louisiana Medicaid Program's fee-for-service program does not cover sex transition surgery; but managed care organizations may pay for this service if deemed medically necessary.

11. HHS has promulgated new regulations interpreting Section 1557 of the Affordable Care Act's prohibition on discrimination "on the basis of sex" to include "gender identity" and other "sex characteristics." Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 (May 6, 2024) ("2024 Rule").

12. If the 2024 Rule requires state Medicaid programs and other health insurance plans to cover sex transition surgeries, Louisiana risks losing significant federal funding.

13. Avoiding that loss would require the Louisiana Medicaid Program to make changes to its administrative rules. Changing rules is an administratively burdensome process that requires cross-government cooperation and results in the expenditure of state resources. The administrative process for implementing final rules, like those that govern the operation of the Louisiana Medicaid Program, is dictated by the Louisiana Administrative Procedure Act and takes approximately six to nine months to complete. This process includes rule drafting, obtaining the, posting for public comment, rulemaking hearing, and possibly a hearing before the Louisiana

legislature and review and approval by the Governor. Thus, any compliance with HHS's new regulations would require immediate expenditure of significant resources.

14. Moreover, if the Louisiana Medicaid Program was required to cover sex transition surgeries, there would be an immediate increase in state and federal expenditures.


KIMBERLY SULLIVAN

Dated: 6/12/24